THE HON'BLE SRI JUSTICE A. GOPAL REDDY

W.P.NO.21429 OF 1995

Date: 13.03.2006

Between:

Gudisetty Shankaraiah & others.

…. Petitioners

and

The Revenue Divisional Officer & Land Acquisition Officer, Sangareddy, Medak district.

… Respondent

THE HON'BLE SRI JUSTICE A. GOPAL REDDY

W.P.NO.21429 OF 1995

ORDER:

The petitioners claim that their land in an extent of Acs.14.16 guntas situated at Bhanur village, Medak district was acquired under the provisions of the Land Acquisition Act, 1894 (for short 'the Act') for the purpose of establishing Bharat dynamic limited. According to the petitioners, an award dated 22.09.1986 was passed by the respondent, awarding Rs.4,800/- per acre as compensation. The grievance of the petitioners is that they received the amount under protest on 04.11.1986 and therefore, filed a petition under Section 18 of the Act to refer the

matter to the competent civil Court. However, the respondent issued an endorsement in file No.B.3/185/88 dated 17.03.1994 rejecting their application, on the ground that they have received the compensation without protest. Hence, the petitioners have approached this Court by way of the writ petition.

Heard the learned counsel for the petitioners and the learned Government Pleader for Land Acquisition.

It is not in dispute that the application under Section 18 of the Act is well within the time prescribed i.e. within two months of the receipt of the notice under Section 12(2) of the Act. It is settled principle of law that even if the compensation is received without protest, the act of mere filing an application seeking reference to civil Court within the period of limitation prescribed under Section 18 of the Act will impliedly infer that the claimants/persons interested had accepted the amount with protest, failure to lodge protest expressly would not amount to waiver of right to seek reference. {See *District Collector, Kakinanda, East Godavari District v. P. Nagabhushanamma & others* (2003(6) ALT 353)}.

In that view of the matter, irrespective of the fact as to whether the petitioners received the compensation under protest or not, they are entitled to get the matter referred to the competent civil Court.

Therefore, this Court is of the opinion that the impugned endorsement dated 17.03.1994 is liable to be set aside and the matter be referred to the civil Court.

The writ petition is accordingly allowed, setting aside the impugned endorsement dated 17.03.1994. The Land Acquisition Officer is hereby directed to refer the matter to the civil Court concerned, as contemplated under Section 18 of the Act. There shall be no order as to costs.

13.03.2006

ksld